

COPY FOR JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

03-21628

CASE NO. _____

CIV. ACTION

SANTANA'S MARKET, INC.
d/b/a SANTANA'S MARKET

Plaintiff

VS.

UNITED STATES OF AMERICA

Defendant.

**MAGISTRATE
BANDSTAMP**

**NIGHT BOX
FILED**

JUN 16 2003

**CLARENCE MADDOX
CLERK, USDC / SDFL / MIA**

COMPLAINT

1. This is an action by SANTANA'S MARKET, INC., Plaintiff, who is doing business as SANTANA'S MARKET, a retail grocery store, requesting judicial review of Defendant's administrative decision to wrongfully, permanently disqualify Plaintiff from participating in the Food Stamp Program.

2. This Court has jurisdiction of this action, pursuant to Title 7 U.S.C. §2023, 5 U.S.C. §703, and the Fifth and Fourteenth Amendments of the United States Constitution.

3. This Court has venue of this action in that the actions of the Defendant occurred within Dade County, Florida of the Southern District of Florida.

4. At all times herein mentioned, Plaintiff was a Florida Corporation, with a principle place of business in Miami, Dade County, Florida, and was doing business as a retail food store.

5. The United States of America is the Defendant, pursuant to the provisions of the Food

1/10

Stamp Act, specifically, Title 7 U.S.C. §2023 (a).

6. By letter from Mr. John Butler of the Defendant's Tallahassee Field Office dated January 8, 2003, Plaintiff was advised that the Defendant was wrongfully permanently disqualifying Plaintiff from participating in the Food Stamp Program (hereinafter sometimes referred to as "the Program"), effective ten days after Plaintiff's receipt of the letter.

7. Pursuant to United States Department of Agriculture, Food and Consumer Service (FCS) regulations, Plaintiff timely requested administrative review of the administrative decision wrongfully disqualifying the Plaintiff for allegedly trafficking in food stamp benefits, i.e., paying cash for food stamp benefits at discounted rates of exchange.

8. Thereafter, by letter dated on May 13, 2003, and received on May 19, 2003, Plaintiff was advised by Patrick A. Frank, Administrative Review Officer, Administrative Review Branch, United States Department of Agriculture, Food and Nutrition Service, of his decision to uphold the imposition of the wrongful, permanent disqualification of Plaintiff from participating in the Food Stamp Program.

9. Defendant agency's actions, as above alleged, are unlawful, arbitrary and capricious, and should be set aside, on the following grounds:

A. Defendant's action is in excess of statutory authority in that Defendant is charging Plaintiff with violations of regulations that unconstitutionally deprive the Plaintiff of its right to contract and to earn a livelihood, as well as its right to due process of law.

B. Defendant's acts are arbitrary, capricious, in bad faith and a denial of Plaintiff's rights to due process and equal protection under the law.

C. The assessment of the permanent disqualification by the Defendant is a denial of

Plaintiff's right to due process of law, in that there is no rational basis in the law for such actions.

D. The investigative procedures utilized by Defendant were conducted in an improper and procedurally deficient way. The Defendant agency utilized a flawed review of Plaintiff's sales to arbitrarily and based upon pure speculation, a conclusion that Plaintiff was trafficking in food stamp benefit permits, and the investigative techniques employed were below standard, unreliable and subject to error. There was no actual onsite investigation conducted and no actual exchange of cash for benefits ever occurred with the Defendant or its agents. Defendant is merely guessing that illegal activities occurred based upon review of sales figures from the Therefore, the investigation was legally inadequate to support the administrative action taken against the Plaintiff.

E. By reason of the facts hereinabove alleged, the rights of Plaintiff to due process and equal protection under the law have been and are being violated by the Defendant.

10. Plaintiff is presently involved in a retail business dealing with Food Stamp benefits and its permanent disqualification from the program will adversely affect persons in food stamp households and cause hardship to them because of the unavailability of other participating food stores in the area to meet their needs.

WHEREFORE, Plaintiff requests relief, as follows:

- (1) An order that Defendant's assessment of a permanent disqualification of Plaintiff from participating in the Food Stamp Program, be set aside.
- (2) For costs of suit herein.
- (3) For reasonable attorney's fees.

(4) For such other relief as the Court may deem proper.

Respectfully submitted,

CEASE & BELL, P.L.L.C.

A handwritten signature in black ink, appearing to read "Allan A. Cease", written over a horizontal line.

BY: Allan A. Cease

Florida Bar ID No.: 217751

2507 Williams Trace Blvd., Suite 103

Sugar Land, Texas 77479

Phone: (281) 980-0909

Fax: (281) 980-1069

Email: acease@houston.rr.com

ATTORNEY-IN-CHARGE FOR PLAINTIFF

JS 44
(Rev. 07/89)

The JS-44 civil cover sheet and the information obtained thereon neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM.)

I (a) PLAINTIFFSCLARENCE MADDOX
CLERK, USDC / SDFL / MIA**DEFENDANTS**UNITED STATES OF AMERICA
CIV. ALTONAGA**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF**
(EXCEPT IN U.S. PLAINTIFF CASES)

Dade County

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

ALLAN A. CEASE of CEASE & BELL, P.L.L.C.
2507 Williams Trace Blvd., Suite 103
Sugar Land, Texas 77479
(281) 980-0909

ATTORNEYS (IF KNOWN)

Marcos D. Jimenez
U.S. Attorney, Southern District of Florida
99 N.E. 4th Street
Miami, Florida 33132

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant

- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicates Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(FOR DIVERSITY CASES ONLY) ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Incorporated or Principal Place of Business in This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business in Another State	5	5
Citizen or Subject of a Foreign Country	3	3			
Foreign Nation	6	6			

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Title 7 U.S.C. §2023; Title 5 U.S.C. §703; 5th and 14th Amendments, U.S. Const.-Administrative Appeal de Novo.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORT		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran Bene 160 Stockholders Suits 190 Other Contract 195 Contract Product Liab	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury	PERSONAL INJURY 362 Personal Injury—Med. Malpractice 365 Personal Injury—Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	<input checked="" type="checkbox"/> 610 Agriculture 620 Other Food & Drug 625 Drug-Related Seizure of Prop. 21 USC 881 630 Liquor Laws 640 R R & Truck 650 Airline Regs 660 Occupational Safety/Health 690 Other LABOR 710 Fair Labor Standards Act 720 Labor/Mgmt Relations 730 Labor/Mgmt Reporting & Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Empl Ret Inc Security Act	422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark SOCIAL SECURITY 861 HIA (1395B) 862 Black Lung (923) 863 DIWC/DWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U S Plaintiff or Defendant) 871 IRS—Thrd Party 26 USC 7609	400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce/ICC Rates 460 Deportation 470 Racketeer Influenced & Corrupt Organization 810 Selective Service 850 Securities/Commodity/Exchange 875 Customer Challenge 12 USC 3410 891 Agricultural Acts 892 Econ. Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determ Equal Access/Justice 950 Const. of State Statute 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
210 Land Condemnation 220 Foreclosure 230 Rent, Lease & Eject 240 Torts to Land 245 Tort Product Liability 290 All Other Real Prop	441 Voting 442 Employment 443 Housing/Accommodations 444 Welfare 440 Other Civil Rights	510 Motions to Vacate Sentence Habeas Corpus 530 General 535 Death Penalty 540 Mandamus and Other 550 Other			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ Original Proceeding
☐ 2 Removed from State Court another district
☐ 3 Remanded from
☐ 4 Reinstated or
☐ 5 Transferred from
☐ 6 Multidistrict Appellate Court
☐ 7 Appeal to District Judge Litigation

VII. REQUESTED IN

CHECK IF THIS IS A **CLASS ACTION**

COMPLAINT

JURY DEMAND: YES X NO

DEMAND \$

Check YES only if demanded in complaint
 UNDER F.R.C.P. 23

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NO.

DATE

June 16, 2003

SIGNATURE OF ATTORNEY OF RECORD

Allan A. Cease

\$150.00 884465

06/17/03

JS 44

(Rev. 07/89)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM.)

I (a) PLAINTIFFS

**SANTANA'S MARKET, INC., d/b/a
SANTANA'S MARKET**

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)**

Dade County

DEFENDANTS

UNITED STATES OF AMERICA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE
TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

ALLAN A. CEASE of CEASE & BELL, P.L.L.C.
2507 Williams Trace Blvd., Suite 103
Sugar Land, Texas 77479
(281) 980-0909

ATTORNEYS (IF KNOWN)

Marcos D. Jimenez
U.S. Attorney, Southern District of Florida
99 N.E. 4th Street
Miami, Florida 33132

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff**
- X 2 U.S. Government Defendant**
- 3 Federal Question**
(U.S. Government Not a Party)
- 4 Diversity**
(Indicates Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN X IN

(FOR DIVERSITY CASES ONLY) ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	X1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business in Another State	5	5
Citizen or Subject of a Foreign Country	3	3			
Foreign Nation	6	6			

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Title 7 U.S.C. §2023; Title 5 U.S.C. §703; 5th and 14th Amendments, U.S. Const.-Administrative Appeal de Novo.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORT		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpay- ment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl Veterans) 163 Recovery of Overpay- ment of Veteran Bene 160 Stockholders Suits 190 Other Contract 195 Contract Product Liab	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury	PERSONAL INJURY 362 Personal Injury— Med Malpractice 365 Personal Injury— Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	<input checked="" type="checkbox"/> 610 Agriculture 620 Other Food & Drug 625 Drug-Related Seizure of Prop 21 USC 881 630 Liquor Laws 640 R R & Truck 650 Airline Regs 660 Occupational Safety/Health 690 Other LABOR 710 Fair Labor Standards Act 720 Labor/Mgmt Relations 730 Labor/Mgmt Reporting & Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Empl Ret Inc Security Act	422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark SOCIAL SECURITY 861 HIA (13958) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U S Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609	400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce/ICC Rates 460 Deportation 470 Racketeer Influenced & Corrupt Organization 810 Selective Service 850 Securities/Commodity/ Exchange 875 Customer Challenge 12 USC 3410 891 Agricultural Acts 892 Econ Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determ Equal Access/Justice 950 Const of State Statute 890 Other Statutory Actions
REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent, Lease & Eject 240 Torts to Land 245 Tort Product Liability 290 All Other Real Prop	CIVIL RIGHTS 441 Voting 442 Employment 443 Housing/ Accommodations 444 Welfare 440 Other Civil Rights	PRISONER PETITIONS 510 Motions to Vacate Sentence Habeas Corpus 530 General 535 Death Penalty 540 Mandamus and Other 560 Other			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- X1 Original Proceeding** **2 Removed from State Court another district** **3 Remanded from State Court another district** **4 Reinstated or** **5 Transferred from** **6 Multidistrict** **7 Appeal to District Judge**
- Reopened from Magistrate Judgment Litigation

VII. REQUESTED INCHECK IF THIS IS A **CLASS ACTION****DEMAND \$**

Check YES only if demanded in complaint

COMPLAINT

UNDER F R C P 23

JURY DEMAND: YES X NO**VIII. RELATED CASE(S)**

(See instructions)

IF ANY**JUDGE****DOCKET NO.**

SIGNATURE OF ATTORNEY OF RECORD

DATE

June 16, 2003

Manuel A. Case